IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

Thursday, the Twenty Sixth Day of August, Two Thousand and Four

Present :

The Hon'ble Mr.Justice J.CHELAMESWAR

W.P.No.3840 of 1994

Between :

The A.P.Cooperative Urban and

Town Banks Employees Association,

Machilipatnam Unit, Machilipatnam,

Rep. by Union Secretary Mr.Gopal Rao,

S/o Venkateswar Rao, President of

Machilipatnam .. Petitioner

And

1. The Divisional Cooperative Officer,

Machilipatnam, Krishna District

2. The President, Machilipatnam Coop.

Urban Bank Ltd., Machilipatnam

3. The Secretary, Cooperative Urban

Bank ltd., Machilipatnam

4. Registrar of Cooperative Societies,

A.P., Hyderabad .. Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more in nature of WRIT OF MANDAMUS declaring the orders of the 1st respondent vide Rc.No.2730/93, dated 10.2.1994 and consequently declare the action of the 2nd and 3rd respondents action to withhold the payment of interim relief and also to recovery of the payment of interim relief vide dated 28.2.1994 as illegal, arbitrary and without jurisdiction.

Counsel for the petitioner : Mr.C.Nageswara Rao

Counsel for the respondents : Govt. Pleader for Cooperation.`

The Court made the following **ORDER :**

Writ Petition is filed with the prayer as follows :

> "to issue an appropriate Writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the orders of the 1st respondent vide Rc.No.2730/93, dt.10.2.1994 and consequently declare the action of the 2nd and 3rd respondents action to withhold the payment of interim relief and also to recovery of the payment of interim relief orders dt.28.2.1994 as illegal, arbitrary and without jurisdiction as pass such order or orders which are deemed fit and necessary in the circumstances of the case."

The petitioner appears to be an Employees Association of the various Cooperative and Urban Town Banks in Andhra Pradesh. There is nothing on record to show that

the association has any existence in the eye of law. In the absence of any material on the record that the association is a registered association under some relevant law and which has a distinct legal existence, a writ by such an association is not maintainable.

Apart from that the case is that there was an agreement between the above mentioned Association and all the Cooperative Urban and Town Banks dated 28.10.1992 for the revision of the pay scales of various employees of these banks and it appears that since the revision of pay scales requires a prior approval of the Registrar of Cooperative Society under Section 116-C of the A.P.Cooperative Societies Act, the 2nd respondent-Bank agreed to make some payment of an interim relief to the members of the petitioner's association pending approval of the revised pay scales by the Registrar of Cooperative Societies. It also appears that as a matter of fact such payment was being made till 10th February, 1994. On the said date, the 1st respondent issued proceedings to the 2nd respondent stating that the payment of such interim relief without the prior approval of the Registrar of Cooperative Societies is violative of the provisions of the Section 116-C of the A.P. Cooperative Societies act and therefore the 2nd respondent was directed to recover the amounts paid under the head of interim relief towards the employees with some reasonable instalments and also stop further payment of the interim relief.

Challenging the said proceedings dated 10.2.1994, the present writ petition is filed. Section 116-C of the A.P.Cooperative Societies Act reads as follows:

> "**116-C. Staffing pattern of societies :-** (1) A society shall have power to fix the staffing pattern, qualification, pay scales and other allowances for its employees with the prior approval of the Registrar of Cooperative Societies;
>
> (2) No appointment or removal of a Chief Executive by whatever name called of any society, or class of societies as may be prescribed which are in receipt of financial aid from the Government, shall be made without the prior approval of the Registrar of Cooperative Societies."

It can be seen from the above, the prior approval of the Registrar of Cooperative Societies, is required while fixing the staffing pattern and prescribing the qualifications, pay scales and other allowances for the employees of a society. The 2nd respondent herein) is admittedly a society.

The learned counsel for the petitioner argued that `interim relief' is neither pay nor allowance and therefore such a payment does not require the prior approval of the Registrar of Cooperative Societies. Except taking such a bold stand, nothing in law is placed before me in support of his submission. In the circumstances, having regard to the plane language of Section 116-C, both fixation of pay scales and other allowances require prior approval of the Registrar of Cooperative Societies, I am of the opinion that payment of interim relief without the prior approval of the Registrar of Cooperative Societies is violative of the Section 116-C of the Cooperative Societies Act and therefore the writ petition is liable to be dismissed and accordingly the writ petition is dismissed.

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knk 26.08.2004

To

1. The Divisional Cooperative Officer,

Machilipatnam, Krishna District

2. The President, Machilipatnam Coop.

Urban Bank Ltd., Machilipatnam

3. The Secretary, Cooperative Urban

Bank ltd., Machilipatnam

4. The Registrar of Cooperative Societies,

A.P., Hyderabad.

5. **Two CCs to the Government Pleader for Cooperation, High Cour of A.P., Hyderabad. (OUT).**

6. **Two CD copies**